

response. These actions obviate the objection and place them in condition for allowance.

The Examiner states that, "Claims 3 and 22 are indefinite in their recitation of 'wherein the plant is male sterile' Replacement of the phrase with --further comprising a genetic factor conferring male sterility-- would obviate this rejection." Claims 3 and 22 have been so amended are now in condition for allowance.

The Examiner states that, "Claims 5 and 24 are indefinite in their recitation of the 'the...protoplasts' which lacks antecedent basis in the claims from which they depend. Deletion of 'the' before 'cells' in line 1, and insertion of --of the tissue culture-- after 'protoplasts' in line 1, would obviate this rejection." Claims 5 and 24 have been amended as suggested and are now in condition for allowance.

The Examiner states that, "Claims 14, 33, 41, 45 and 46 are indefinite in their recitation of 'very good', 'outstanding', 'good' and 'adapted' which are unduly narrative and so fail to clearly characterize the degree of expression of the claimed trait or the claimed maize plant exhibiting the trait." Claims 14, 33, 41, 45, and 46 have been cancelled thus placing the application in condition for allowance.

The Examiner states that, "Claims 16 and 35 are indefinite in their recitation of '[t]he maize plant breeding program' since the claims from which they depend are drawn to methods rather than breeding programs. Replacement of the phrase with '[t]he method' would obviate this rejection." Claims 16 and 35 have been amended as suggested by the Examiner thus placing them in condition for allowance.

The Examiner states that, "Claims 19-20 and 48-49 are indefinite in their recitation of '[t]he single gene conversion(s) of claim' since the preceding claims are drawn to maize plants rather than single gene conversions. Replacement of 'conversion(s)' with --conversion--, and insertion of --maize plant -- after 'conversion', would obviate this rejection." Claims 19-20 and 48-49 have been amended as suggested by the Examiner and thus are now in condition for allowance.

The Examiner states that, "Claims 14, 33, 43, and 45-46 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wehrmann (U.S. 5,569,816). " Claims 14, 33, 43, 45, and 46 have been cancelled thus placing the application in condition for allowance. Claims 14, 33, 43, 45, and 46 were cancelled solely to expedite allowance of this application. Applicant expressly reserves the right to prosecute such claims in a related application.

CONCLUSION

Attached hereto is a marked-up version of the changes made to the specification and claims by current amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

Applicant submits that in light of the foregoing amendments to claims 1, 3, 5, 6, 16, 19, 20, 21, 22, 24, 25, 35, 37, 40, 48, and 49 as suggested by the Examiner and the cancellation of claims 14, 33, 41, 43, 45, and 46 the application is now in condition for allowance. Reconsideration and early notice of allowability is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

Respectfully submitted,
Delmar Brenner



Steven Callistein
Reg. No. 43,525
Attorney for Applicant

Steven Callistein
Pioneer Hi-Bred International
7100 NW 62nd Avenue
P.O. Box 1000
Johnston, IA 50131-1000
(515) 254-2823
(515) 224-6883 Facsimile

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the specification

At page 44 of the original application, lines 2 – 21, following "Deposits", the entire paragraph was deleted and the clean paragraph as written in the response was inserted.

In the claims

Claims 14, 33, 41, 43, 45, and 46 were deleted.

Claims 1, 3, 5, 6, 16, 19, 20, 21, 22, 24, 25, 35, 37, 40, 48, and 49 were amended as follows:

1. (Amended) Seed of maize inbred line designated PH0R8, representative seed of said line having been deposited under ATCC Accession No. [_____] PTA-4344.
3. (Amended) The maize plant of claim 2 [, wherein said plant is male sterile] further comprising a genetic factor conferring male sterility.
5. (Amended) A tissue culture according to claim 4, [the] cells or protoplasts of the tissue culture being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.
6. (Amended) A maize plant regenerated from the tissue culture of claim 4, capable of expressing all the morphological and physiological characteristics of inbred line PH0R8, representative seed of which have been deposited under ATCC Accession No. [____] PTA-4344.
16. (Amended) The [maize plant breeding program] method of claim 15 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.
19. (Amended) The single gene [conversion(s)] conversion maize plant of claim 18, wherein the gene is a dominant allele.

20. (Amended) The single gene [conversion(s)] conversion maize plant of claim 18, wherein the gene is a recessive allele.

21. (Amended) A maize plant, or parts thereof, having all the physiological and morphological characteristics of inbred line PH0R8, representative seed of said line having been deposited under ATCC accession No. [_____] PTA-4344.

22. (Amended) The maize plant of claim 21 [, wherein said plant is male sterile] further comprising a genetic factor conferring male sterility.

24. (Amended) A tissue culture according to claim 23, [the] cells or protoplasts of the tissue culture being from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

25. (Amended) A maize plant regenerated from the tissue culture of claim 23, capable of expressing all the morphological and physiological characteristics of inbred line PH0R8, representative seed of which have been deposited under ATCC Accession No. [_____] PTA-4344.

35. (Amended) The [maize plant breeding program] method of claim 34 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

37. (Twice Amended) A process for producing inbred PH0R8, representative seed of which have been deposited under ATCC Accession No. [_____] PTA-4344, comprising:

- (a) planting a collection of seed comprising seed of a hybrid, one of whose parents is inbred PH0R8 said collection also comprising seed of said inbred;
- (b) growing plants from said collection of seed;
- (c) identifying inbred parent plants;
- (d) selecting said inbred parent plant;

- (e) controlling pollination through selfing, which preserves the homozygosity of said inbred parent plant; and
- (f) collecting morphological and/or physiological data so that said inbred parent may be identified as inbred PH0R8.

40. (Amended) A method for producing a PH0R8-derived maize plant, comprising:

- (a) crossing inbred maize line PH0R8, representative seed of said line having been deposited under ATCC Accession No. [_____] PTA-4344, with a second maize plant to yield progeny maize seed;
- (b) growing said progeny maize seed, under plant growth conditions, to yield said PH0R8-derived maize plant.

48. (Amended) The single gene [conversion(s)] conversion maize plant of claim 47, wherein the gene is a dominant allele.

49. (Amended) The single gene [conversion(s)] conversion maize plant of claim 47, wherein the gene is a recessive allele.